

<https://helda.helsinki.fi>

The Normalization of Prostitution in Switzerland : The Origin of Policies

Corinne Isler

2018-04-16

Corinne Isler & Jyrkinen , M 2018 , ' The Normalization of Prostitution in Switzerland : The Origin of Policies ' , Dignity , vol. 3 , no. 2 . <https://doi.org/10.23860/dignity.2018.03.02.04>

<http://hdl.handle.net/10138/307679>

<https://doi.org/10.23860/dignity.2018.03.02.04>

cc_by_nc_nd

publishedVersion

Downloaded from Helda, University of Helsinki institutional repository.

This is an electronic reprint of the original article.

This reprint may differ from the original in pagination and typographic detail.

Please cite the original version.

April 2018

The Normalization of Prostitution in Switzerland: The Origin of Policies


Corinne Isler

University of Helsinki, corinne.isler5@gmail.com

Marjut Jyrkinen

University of Helsinki, marjut.jyrkinen@helsinki.fi

Follow this and additional works at: <https://digitalcommons.uri.edu/dignity>

 Part of the [Criminal Law Commons](#), [Criminology and Criminal Justice Commons](#), [European Law Commons](#), [Inequality and Stratification Commons](#), [Law and Gender Commons](#), [Law and Society Commons](#), [Other International and Area Studies Commons](#), [Policy Design, Analysis, and Evaluation Commons](#), [Political Economy Commons](#), [Politics and Social Change Commons](#), [Public Policy Commons](#), [Sexuality and the Law Commons](#), and the [Social Control, Law, Crime, and Deviance Commons](#)

Recommended Citation

Isler, Corinne and Jyrkinen, Marjut (2018) "The Normalization of Prostitution in Switzerland: The Origin of Policies," *Dignity: A Journal on Sexual Exploitation and Violence*: Vol. 3: Iss. 2, Article 4.

DOI: 10.23860/dignity.2018.03.02.04

Available at: <https://digitalcommons.uri.edu/dignity/vol3/iss2/4><https://digitalcommons.uri.edu/dignity/vol3/iss2/4>

This Research and Scholarly Article is brought to you for free and open access by DigitalCommons@URI. It has been accepted for inclusion in Dignity: A Journal on Sexual Exploitation and Violence by an authorized editor of DigitalCommons@URI. For more information, please contact digitalcommons@etal.uri.edu.

The Normalization of Prostitution in Switzerland: The Origin of Policies

Abstract

In this article, we examine how socio-political actors frame prostitution and problems attached to the phenomenon and what types of policies they suggest. The sex trade in Switzerland has been tolerated since 1942, and prostitution is protected under the economic freedom guaranteed by the Swiss constitution. Any critique of prostitution is viewed as counterproductive, claimed to be rooted in old-fashioned ideas about sexuality and thought to worsen the situation for women who sell sex. The role of sex buyers is largely obscured, and the presumed right to buy sex remains unquestioned.

Keywords

Switzerland, prostitution, sex trade, frame analysis, feminism

Creative Commons License

Creative

Commons

License.

This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0](https://creativecommons.org/licenses/by-nc-nd/4.0/)

Acknowledgements

This article is based on the Master's thesis "Prostitution policies in Switzerland and the City of Zurich: A critical frame analysis of official documents and NGO papers" (Isler, 2016). Dignity thanks the following people for their time and expertise in reviewing this article: Sven- Axel Månsson, Ph.D., professor emeritus, Centre for Sexology and Sexuality Studies, Malmö University, Sweden and Monica O'Connor, Ph.D., researcher, Sexual Exploitation Research Project, School of Social Policy, Social Work and Social Justice, University College-Dublin, Ireland.

THE NORMALIZATION OF PROSTITUTION IN SWITZERLAND: THE ORIGIN OF POLICIES

Corinne Isler

University of Helsinki

Marjut Jyrkinen

University of Helsinki

ABSTRACT

In this article, we examine how socio-political actors frame prostitution and problems attached to the phenomenon and what types of policies they suggest. The sex trade in Switzerland has been tolerated since 1942, and prostitution is protected under the economic freedom guaranteed by the Swiss constitution. Any critique of prostitution is viewed as counterproductive, claimed to be rooted in old-fashioned ideas about sexuality and thought to worsen the situation for women who sell sex. The role of sex buyers is largely obscured, and the presumed right to buy sex remains unquestioned.

KEYWORDS

Switzerland, prostitution, sex trade, frame analysis, feminism

The sex trade has been passionately debated around the world for decades, and policy regimes on prostitution differ considerably among countries. Contradictory positions on prostitution have shaped international recommendations on the sex trade. In May 2016, Amnesty International published a policy that calls for ‘the decriminalization of all aspects of adult consensual sex work,’ including the purchase of sex. In this policy, it is stated that “to protect the rights of sex workers, it is necessary not only to repeal laws which criminalize the sale of sex, but also to repeal those which make the buying of sex from consenting adults or the organization of sex work (such as prohibitions on renting premises for sex work) a criminal offence” (Amnesty International, 2016, p. 2). In contrast, the European Parliament recommends the adoption of the Swedish model of prostitution law. This model includes the criminalization of buying sex and pimping, the decriminalization of selling sex and the offering of exit services to people who wish to leave prostitution (European Parliament, 2014). On the other hand, the European Union’s agreed-upon policy addresses the demand for human trafficking¹, not that for prostitution. The criminalization of the purchase of sex is limited to cases

¹ Directive 2011/36/EU (replacing Council Framework Decision 2002/629/JHA) is the most recent indication of the commitment of the European Union to addressing the demand for human trafficking. Article 18 states that: “Member States shall take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings”.

where a sex buyer knowingly buys sex – “uses services” – from a victim of trafficking for sexual exploitation.²

In this article, we examine how different socio-political actors in Switzerland and particularly the City of Zurich perceive prostitution and what kind of solutions they suggest to problems within and around the sex trade. We analyze official documents published by the Swiss government and the City of Zurich on the sex industry and non-governmental organization (NGO) policy papers that seek to influence decision-making and public opinion. Our analysis is based on the methodological approach of critical frame analysis (Bacchi, 1999; Verloo, 2005; Verloo & Lombardo, 2007). The purpose of this methodological approach is to map how prostitution is framed, to explain nuances of a policy frame and to reveal inconsistencies as well as marginalizations and exclusions (Verloo & Lombardo, 2007, pp. 37-38).

An important consideration in discussions about prostitution is the language and terms used – they are not neutral but instead reconstruct ideological and political positioning on the sex trade. Terms such as “sex work,” “sex workers,” and “clients” can be considered as part of a perspective where prostitution is viewed as gainful, even empowering employment. In contrast, terms like “prostitution,” “women in prostitution,” “prostituted women” or “women who sell sex,” “johns,” or “buyers” position the sex trade as commercialized and gendered abuse. In this article, we follow Sheila Jeffreys’s (2009, pp. 8-9) suggestion to avoid the use of language that enhances the sex industry. Thus, we only use the terms “sex work” and “sex workers” when referring directly to a perspective on prostitution that employs these terms.

The legislative context of gender equality and prostitution in Switzerland

In the Global Gender Gap Report 2017, Switzerland placed 21st, 1st place referring to the smallest gender gap (World Economic Forum, 2017). Switzerland can, however, be considered a laggard state regarding the development of gender equality legislation.³ Only in 1971 was women’s suffrage introduced on the national level. The full implementation of women’s suffrage on the cantonal and municipal level took place as late as 1990 (Eidgenössische Kommission für Frauenfragen, [1998] 2009a, p. 1). Also, in other gender equality matters, Switzerland adopted legislation comparatively late. The principle of equal rights for men and women under the law was formally introduced into the Swiss Constitution in 1981. Before that, men and women were seen as inherently different and thereby to have dissimilar rights and obligations. The amendment to the constitution led to the adoption of several new laws regarding equal treatment of men and women, such as equality within marriage and the family (the abolishment of the concept of the husband as head of the household), in education and in the workplace (Eidgenössische

² Part 4 of Article 18 states: “In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2”.

³ For a detailed analysis of the reasons for these late developments as well as analyses of the contested meanings of gender equality and women’s rights in Switzerland, see, for example, Häusermann & Kübler (2010) and Lanfranconi & Valarino (2014).

Kommission für Frauenfragen, [1998] 2009b, pp. 1-2). In 1997, Switzerland ratified – as one of the last countries – the UN Convention on the Elimination of All Forms of Discrimination Against Women (Eidgenössische Kommission für Frauenfragen, [1998] 2009b, p. 8).

Reproductive rights have also been a heavily contested issue in Switzerland. According to current legislation, abortion is available within the first 12 weeks of pregnancy (Schweizerisches Strafgesetzbuch, 2002, Art. 118-120). Until 2002, abortion was illegal in all cases except when a continuation of the pregnancy would have posed a threat of serious long-term damages to the woman's health (Schweizerisches Strafgesetzbuch, 1942, Art. 120).

In 1992, a new law on sexual offenses came into force. Among other revisions, this law criminalized rape within marriage, although marital rape could only be prosecuted based on a complaint by the victim (*Antragsdelikt*) (Eidgenössische Kommission für Frauenfragen, ([1998] 2009c, p. 2). This law was amended in 2004 when marital rape became a felony that can be prosecuted also without the victim's complaint (*Offizialdelikt*) (Eidgenössisches Departement des Innern, 2006, p. 10). The 1992 revision of the Criminal Code introduced stricter legislation regarding violence against women. These amendments, however, did not include any paragraphs on the sex trade. Although prostitution had been named as a social problem by the women's movement, no radical challenge to the institution was included in the new law (Eidgenössische Kommission für Frauenfragen, [1998] 2009c).

Prostitution has been tolerated and thereby *de facto* legalized since 1942 when the Swiss Criminal Code entered into force. There is no national legislation that explicitly prohibits the sex trade. In 1973, the economic freedom (*Wirtschaftsfreiheit*) guaranteed by the Swiss Constitution was broadened to include prostitution (Hürlimann, 2004, pp. 1-2). Economic freedom protects economic actions by individuals as well as juridical persons under civil law from interference by the state and allows individuals to freely choose a profession in the private sector. State interventions that favor certain economic activities over others are not allowed (Häfelin & Haller, 2005, p. 6). The economic freedom guaranteed by the Swiss Constitution is more encompassing than in most other countries (Hürlimann, 2004, p. 28). Nonetheless, in cases where state intervention is grounded on predominant public interest and relies on an appropriate legal foundation, it is possible to justify a restriction of the economic freedom (Häfelin & Haller, 2005, pp. 6-7).

In 1992, an amendment of the legislation on sexual offenses abolished the offenses of procuring (*Kuppelei*) and passive solicitation (*Passive Zuhälterei*) (Koordinationsstelle gegen Menschenhandel und Menschenschmuggel, 2010). Although prostitution is not clearly defined in legislation, the Swiss Federal Council described it in the preparatory act of the revision of sexual offenses laws as follows:

Prostitution can be hetero- as well as homosexual prostitution. It consists of the occasional or professional offering and relinquishing of one's own body to other persons for their sexual satisfaction in exchange of monetary remuneration or other material goods. The sexual action does not need to consist of sexual intercourse (Bundesblatt, 1985, II, pp. 1082-1083, own translation).

The only current national laws on prostitution are the prohibition of encouraging prostitution (*Förderung der Prostitution*) (Schweizerisches Strafgesetzbuch, 1942, Art. 195) and the prohibition of the illegitimate practice of prostitution (*Unzulässige Ausübung der Prostitution*) (Schweizerisches Strafgesetzbuch, 1942, Art. 199). The former refers to inducing a person into prostitution or preventing a person from leaving the trade. The latter concerns prostitution that violates cantonal or municipal regulations in terms of the area, time or fashion in which prostitution is allowed. In addition, trafficking in human beings is outlawed, including trafficking for the purpose of sexual exploitation (*Menschenhandel zum Zwecke der sexuellen Ausbeutung*) (Schweizerisches Strafgesetzbuch, 1942, Art. 182).

Laws concerning immigrants are also of importance because they affect the legal status of sellers of sex without Swiss citizenship. The bilateral agreements between Switzerland and the European Union (EU) and the country's membership in the European Free Trade Association (EFTA) impact how foreign nationals are divided into two groups, namely EU-EFTA citizens and "third-country nationals". The latter group can only acquire a work permit for employed or self-employed work if it serves the economic interest of Switzerland (Bugnon, Chimienti & Chiquet 2009a, p. 14). Crucial in the determination of this economic interest are the chances for an enduring integration in the Swiss labor market and social environment (Bundesgesetz über die Ausländerinnen und Ausländer, 2005, Art. 3). The public authorities are in charge of decision-making in this area (Bundesgesetz über die Ausländerinnen und Ausländer, 2005, Art. 96). Third-country nationals do not usually have the right to work in the sex trade because prostitution is not regarded as serving the economic interests of the country (Bugnon et al., 2009a, p. 16).⁴

Whereas sex in exchange for money or goods is not criminalized, contracts between a prostituted person and a sex buyer as well as between a prostituted person and an "employer" are viewed as offences against morality (*sittenwidrig*) and thus generally considered null and void by the Federal Supreme Court of Switzerland (Hürlimann, 2004, pp. 162, 219-239). However, in a landmark case in 2013, the District Court of Horgen in the canton of Zurich ruled that a contract between a prostituted person and a buyer is legally valid and that a prostitute has the right to make legal claims when a buyer refuses to pay (Hürlimann, 2013, December 4).⁵

In 2011, a Prostitution Industry Regulation (*Prostitutionsgewerbeverordnung*; PGVO) was adopted by the City of Zurich. The PGVO introduced obligatory permits for people in street prostitution and for brothel owners

- ⁴ Cabaret dancers (i.e., striptease dancers) are working under an employment contract and are thus not legally allowed to engage in prostitution. In some cantons, however, third-country nationals working in cabarets could obtain a special type of permit (*Bewilligung L*) that represents an exception to the rule of only allowing people whose work serves the national economic interests (Bugnon et al., 2009a, p. 16). The intention of the permit was to enable cabaret dancers to work legally and thereby protect them from exploitation. This special permit was abolished in 2014, as the expected protection of cabaret dancers could not be achieved (Staatssekretariat für Migration, 2014).

⁵ The Federal Supreme Court of Switzerland and district courts base themselves on the provisions regarding contracts that contain offences against morality provided in Article 20, Part 1 of the Swiss Code of Obligations of 1911 (*Schweizerisches Obligationenrecht*). As Switzerland has a civil law system rather than a common law system, court rulings do not represent binding legal precedents.

(Neuhaus, 2011, March 19). People in street prostitution must now purchase a daily ticket to be allowed to use the designated areas. There are only three areas in the City of Zurich where street prostitution is permitted. Prostituted women, as well as sex buyers who engage or try to engage in prostitution outside of these areas, can be fined (Hürlimann, 2012, November 11). One daily ticket to sell sex costs 5 Swiss francs (around 4.50 euros) and can only be purchased if the necessary registration procedure with the public authorities has been completed (Hürlimann, 2012, November 11).

Brothels must acquire a license if more than two people are selling sex there. Salons with up to two people selling sex are required to obtain a building permit. The latter was already the case before the adoption of the PGVO, but public authorities have only now started to implement strict controls. This has caused a considerable reduction in the number of legal brothels in Zurich (Unternährer, 2014, January 29).

As in many other countries, studies on prostitution prevalence report widely differing estimates. A common estimate is that there are 13,000–20,000 people who sell sex for a shorter or longer period of time within one calendar year in Switzerland (Biberstein & Killias, 2015, pp. 75-78). There are four main venues for prostitution in Switzerland, namely street prostitution, massage parlors (some “studios,” some larger brothels), contact bars, and cabarets. Only in the first two settings is prostitution officially permitted as described above, whereas the latter claim only to employ bartenders and striptease dancers. In practice, bars and cabarets often serve as places for prostitution, and women who sell sex there are especially vulnerable to exploitation by their employers (Bugnon, Chimienti, Chiquet & Eberhard, 2009b, pp. 12-13).

It is estimated that women in prostitution outnumber men by a factor of 50 and transgender individuals by a factor of 25. Prostitution in Switzerland, like in other countries, is thus a strongly gendered practice. Also, foreign nationals are significantly overrepresented in prostitution (Bugnon et al., 2009b, pp. 24-27). The most common countries of origin of women in prostitution in the City of Zurich – and Switzerland as a whole – are Hungary, Bulgaria, and Romania (Biberstein & Killias, 2015, pp. 40-41). The number of women from Romania who sell sex has increased gradually since 2009 when the free movement of people between Switzerland and the EU was extended to include Romania and Bulgaria (Biberstein & Killias, 2015, pp. 47-48).

Approximately 23% of men between the ages of 17 and 45 are estimated to have purchased sex at least once during the years between 1987 and 2000. No consistent increase or decrease has been noted over these years (Jeannin, Rousson, Meystre-Agustoni & Dubois-Arber, 2008, pp. 557-558). However, in many other countries, there is a lack of research on buying sex in Switzerland, as in many other countries.

Critical frame analysis

Our empirical data consist of key policy documents and NGO papers that were published between 2010 and 2015 (see Table 1 and 2). During this period of time, a new policy was drafted and implemented. This new Prostitution Industry Regulation by the City of Zurich (PGVO) in 2010 initiated a consultation procedure, inviting different actors to submit statements about the planned policy. In 2012, the federal government of Switzerland opened a consultation procedure regarding the abolishment of the statute relating to cabaret dancers (see above and footnote 4).

This instigated a general discussion on prostitution, and several reports related to the sex trade were published. Thus, we consider the timespan of these six years as crucial for current and future prostitution policies and legislation in Zurich and Switzerland.

Table 1: National Level Policy Documents and NGO Papers⁶

Code⁷	Organization/institution	Title of the document	Document type	Year
NMig	Bundesamt für Migration (BFM): Expertengruppe Hilber [Federal Office for Migration: Expert group Hilber] ⁸	Bericht der nationalen Expertengruppe – Schutzmassnahmen für Frauen im Erotikgewerbe [Report by the National Expert Group – Measures for Protection of Women in the Erotic Industry]	Expert group report (published by the government)	2014
NNgo	Terre des Femmes Schweiz (TDF), FIZ Fachstelle Frauenhandel und Frauenmigration, cfd Christlicher Friedensdienst, Xenia, PROKORE [Terre des Femmes Switzerland (TDF), FIZ Advocacy and Support for Migrant Women and Victims of Trafficking, cfd Christian Peace Service, Xenia, PROKORE]	Diskussionspapier Sexarbeit - Fakten, Positionen und Visionen aus feministischer Perspektive [Discussion Paper Sex Work – Facts, Positions, and Visions from a Feminist Perspective]	NGO discussion paper	2014
NFed	Schweizer Bundesrat [Swiss Federal Council]	Prostitution und Menschenhandel zum Zweck der sexuellen Ausbeutung [Prostitution and Human Trafficking for the Purpose of Sexual Exploitation]	Government report	2015

⁶ A short description of the role and tasks of these organizations, where necessary, can be found in the appendix.

⁷ The first letter of the code stands for either “national level” (N) or “municipal level” (M). These codes will be referred to in order to make the presentation of our data analysis more transparent.

⁸ On 1 January 2015, the former Federal Office for Migration (FOM) was renamed the State Secretariat for Migration (SEM). In this article, documents predating 2015 are still referenced as authored by the Federal Office for Migration.

Table 2: Municipal Level Policy Documents and NGO Papers

Code ⁹	Organization/institution	Title of the document	Document type	Year
PGVO	Polizeidepartement, Stadt Zürich [Police department, City of Zurich]	Entwurf Prostitutionsgewerbeverordnung [Draft of the Prostitution Industry Regulation]	Policy draft	2010
MNgo	Zürcher Stadtmission (ZSM), FIZ Fachstelle Frauenhandel und Frauenmigration, Zürcher Aids-Hilfe (ZAH) [Mission of the City of Zurich (ZSM), FIZ Advocacy and Support for Migrant Women and Victims of Trafficking, AIDS Federation of Zurich (ZAH)]	Vernehmlassungsverfahren Prostitutionsgewerbe-Verordnung der Stadt Zürich – Stellungnahme [Consultation Procedure for the Prostitution Industry Regulation of the City of Zurich – Statement]	NGO opinion on the policy draft	2011
PGVORep	Polizeidepartement, Stadt Zürich [Police department, City of Zurich]	Bericht über die Entwicklung des Prostitutionsgewerbes mit der Neuen Prostitutionsgewerbe-Verordnung [Report on the Development of the Prostitution Industry with the New Prostitution Industry Regulation]	Municipal report	2015

Our methodology is based on Carol Bacchi's (1999) approach on the construction of policy problems ("What is the problem represented to be?"), and critical frame analysis on gender politics developed by Mieke Verloo (2005), and Verloo and Emanuela Lombardo (2007). Critical frame analysis was developed to analyze the discursive power dynamics connected to policy-making (Verloo, 2005). It is intended to study the different representations that socio-political actors offer about policy problems and solutions in policy documents (Verloo & Lombardo, 2007). The goal of a critical frame analysis is not, in contrast to positivist approaches, to find the "best" solution to an objectively defined problem, but rather to uncover the ways in which a problem is understood and to show how the suggested solutions can be traced back to certain assumptions and problem representations (Bacchi, 1999, p. 21).

Questions regarding power and inclusion/exclusion add another critical element to the frame analysis (Verloo & Lombardo, 2007, p. 36). The right to have a voice in the policy debate and in framing of a policy issue is closely connected with questions of power. In this way, participation in policy debates can serve the already dominant groups while further marginalizing others (Verloo & Lombardo,

⁹ The first letter of the code stands for either "national level" (N) or "municipal level" (M). These codes will be referred to in order to make the presentation of our data analysis more transparent.

2007, p. 27). In addition, defining something as a problem always includes a normative element of making a judgment, although policy-making is often represented as strictly logical and rational. Power and values are therefore of crucial importance for the identification of a problem as well as the methods that are considered useful for examining and solving it (Marshall, 1999, pp. 69-70).

We used the following coding guide on problem identification and proposed solutions applied from Verloo and Lombardo's critical frame analysis (2007).

1. Problem identification (Diagnosis)

- 1.1 Problem identification (What is represented as the problem?)
- 1.2 Gender (Is the problem seen as gendered? If so, how?)
- 1.3 Intersectionality (Are other social categories (class, ethnicity, race, age, sexuality) part of the diagnosis of the problem?)
- 1.4 Absences (What is left unquestioned?)
- 1.5 Problem holders (Whose problem is it seen to be?)
- 1.6 Responsibility (Who is considered to be responsible for the problem?)
- 1.7 Voice (Who has/should have a voice in the policy debate?)

2. Proposed solutions (Prognosis)

- 2.1 Solutions (What solutions are proposed?)
- 2.2 Gender (Is gender included in the proposed solutions? If so, how?)
- 2.3 Intersectionality (Are other social categories (class, ethnicity, race, age, sexuality) part of the solution of the problem?)
- 2.4 Absences (What alternative solutions are not mentioned?)
- 2.5 Target groups (Who is acted upon?)
- 2.6 Action (Who should do something about the problem?)
- 2.7 Voice (Who has/should have a voice in suggesting courses of action?)

Critical frame analysis is a suitable methodology to expose how problems and corresponding solutions are framed and to uncover inconsistencies as well as exclusions. However, there are some limitations of this method. For instance, it is not possible to explain how and why the existing frames have developed in the way they now appear to us. Other methodologies would be necessary to address this question, for example, a dynamic frame analysis, which has been employed by Josefina Erikson (2012) to analyze different framings of prostitution in Sweden. For this purpose, it is crucial to examine the political context in which policy debates take place and the conditions under which some frames have become more dominant than others (Bacchi, 1999, p. 19; Verloo & Lombardo, 2007, p. 40).

Two main framings of prostitution in Switzerland

In our analysis, we found two main framings of prostitution – a regulation frame and a sex work frame. We bring up the main components of each of these frames and, subsequently, discuss two major commonalities shared between the two frames. In both framings, prostitution is accepted as an inevitable social reality, and the criminalization of the purchase of sex is rejected.

In the following sections, we present the main features and nuances of both frames. We also examine what is left unquestioned within the documents. Our analysis outlines the central elements of each of the identified frames and how the

problem of prostitution is framed therein. Direct quotes from the data are used to illustrate the analysis. The main topics that emerged from the data concern the status of the sex trade *per se*, approaches to legislation (including opposition to the Swedish model of prostitution law in both frames), the relationship between prostitution and trafficking in human beings, as well as the role of sex buyers.

Regulation frame

The provisions of the Prostitution Industry Regulation (PGVO) of the City of Zurich are aimed to set limits to the sex trade by enforcing the licensing of brothels and obligating people who sell sex to register with the authorities. It includes measures that are meant to protect the general public from “negative impacts” and consequences of the sex industry, to protect “public order” and “public health,” and to improve the situation of individuals in prostitution.

On one hand, it is about the protection of the general public from negative impacts of the sex trade and about the protection of public order and public health, but on the other hand, it is also about improving the working conditions of people in prostitution and their protection from exploitation and violence as well as their right to self-determination. In order to reach these goals, preventive as well as repressive measures are planned (Polizeidepartement, Stadt Zürich, 2010, p. 5, own translation).

Although the protection of people in prostitution from exploitation and violence is explicitly mentioned in this section of the PGVO, the more detailed provisions contained in the same document focus almost exclusively on repressive measures and the aim of protecting public order. The PGVO introduces mandatory permits for people in street prostitution as well as brothel owners. People who engage in prostitution without the necessary permit - which can only be obtained through registration with the authorities - or selling sex outside the designated areas, can be fined. Since 2013, people in street prostitution have been obligated to purchase a daily ticket to be allowed to be present in the zones designated for street prostitution (Hürlimann, 2012). Criminalization of buying sex is not part of the PGVO, except for those who solicit sex outside of the designated areas. The protection of people in prostitution seems to amount to little more than a cursory reference – only the health of the sex buyers seems to be a particular concern.

In 2015, the City of Zurich published a report (PGVORep) about the developments in the sex industry after the implementation of the PGVO. The report documented a general success of the new provisions – success being interpreted as a decrease in the attractiveness of the sex trade into an “acceptable level”:

With regard to the development of the prostitution industry, it can overall be asserted that with the regulation of the industry, the attractiveness of the City of Zurich has decreased, particularly for prostitutes from the eastern member states of the EU as well as for sex buyers from a wide geographic radius. The negative excesses, which had been present especially in street prostitution on the Sihlquai, could be stopped. Thanks to the different measures, the prostitution industry has reached an *acceptable level* for the city and the specific neighborhoods (Polizeidepartement, Stadt Zürich, 2015, p. 34, own translation and emphasis).

The protection of people in the sex trade, which had been defined as one of the central aims of the Prostitution Industry Regulation, is not mentioned anymore.

The success of the new provisions is measured by the decrease of prostitution in the City of Zurich. There was, however, no mention of the possibility that the trade might have moved to neighboring cities or suburbs. The existence of prostitution is regarded as unproblematic, given that it remains at a tolerable level for the city and its residents. “Acceptability” is highly interesting, as, on the one hand, there is a need to restrict prostitution in a way that it does not too much bother the citizens in their everyday lives, but, on the other hand, to enable the existence of prostitution services and easy access for the buyers.

The report by a national expert group on measures for the protection of women in prostitution (NMig) (Bundesamt für Migration, 2014) establishes a distinction between local and foreign “sex workers,” with the latter viewed as being responsible for the deteriorating conditions within the sex trade. They are supposed to cause negative consequences for local “sex workers,” as the following quote illustrates:

The local sex workers are partly pushed aside within street prostitution. The supply exceeds the demand in many places, which has partially led to price drops and increased work insecurity. Unprotected sex practices have increased (Bundesamt für Migration, 2014, p. 11, own translation).

Prostitution is herein framed exclusively in market terms. The drop of prices and the increase in the prevalence of unprotected sex practices are regarded as an inevitable consequence of high supply. The role of the (mostly male) sex buyers, on the other hand, is ignored (Raymond, 2013, pp. 60-61) – they are not seen as a problem or even a part of it. The question of why sex buyers demand unprotected sex in the first place is not addressed either. The same perspective is also taken by the authors of an NGO position paper (NNgo) (Terre des Femmes Schweiz, Fachstelle Frauenhandel und Frauenmigration, cfd, Xenia & PROKORE, 2014), which asserts that disadvantages caused by a growing supply of sex services are less problematic if demand increases simultaneously. This position could be interpreted as a wish that more men buy sex, which in turn would lead to a further expansion of the sex industry.

The following statement from a report published by the Swiss Federal Council (NFed) indicates that decreasing demand may be a cause of human trafficking. Therefore, measures against trafficking and to decrease the demand are questioned, in contrast to international conventions.

For the prostitutes, this means that the pressure of competition has increased and that they must assert themselves increasingly against other competitors in the market. One possibility is to use the services of supposed helpers who promise them a certain income. In the case of foreign prostitutes, this can already happen in the country of origin. Thereby, the first fatal steps towards exploitation and human trafficking have taken place. From this perspective, it seems questionable whether measures against human trafficking that focus primarily on the demand side are successful (Schweizer Bundesrat, 2015, p. 65, own translation).

Here, the responsibility is placed on those who exploit foreign prostituted women (*i.e.*, procurers and traffickers). The local prostituted women, in contrast, are considered victims of diminishing markets and increasing competition. However, sex buyers are not thought to be a factor in the increase of human trafficking.

On the contrary, low demand for prostitution is cited as a cause of trafficking, in contrast to the results of a large-scale cross-country study that has demonstrated a link between legalized prostitution and trafficking in human beings due to increased demand (Cho, Dreher & Neumayer, 2013). Sex buyers are hereby assumed to support women in prostitution by enabling them to earn a living and reducing the risks of exploitation (see Gira Grant, 2014, p. 73).

In contrast, another section of the same report (NFed) mentions a study that asserts that Swiss brothels do not depend on the labor of potential victims of human trafficking. The reason for this is the high number of (assumably local) women who apply to work in these brothels:

According to a study from the year 2014, large-scale brothels (more than three prostitutes are present at the same time) receive a high number of applications. From this is concluded that large-scale brothels in Switzerland do not depend on the work of potential victims of human trafficking (Schweizer Bundesrat, 2015, pp. 71-72, own translation).

Here, brothels are presented as aspired places of employment. While no clear link is made between the demand for prostitution and the existence of trafficking in human beings, the possibility of “employing” victims of human trafficking in brothels to meet the demand is not explicitly ruled out here.

The Swedish model, which criminalizes the purchase of sex, decriminalizes people who sell sex and offers support to those who wish to leave the industry, is discussed in the report (NMig) published by an expert group that was employed by the Federal Office for Migration. The main aim of this report was to develop protection measures for women in the sex trade.

According to the expert group, a ban based on the example of Sweden is not suitable to ensure the protection of women in the sex trade. It is indisputable that there are coerced prostitutes in Switzerland and that the so-called poverty prostitution¹⁰ favors exploitative situations and human trafficking A ban would, according to the perspective of the expert group, lead to a situation where the protection of all sex workers would be weakened. Furthermore, such a ban would stand in opposition to the economic freedom guaranteed in the constitution (Bundesamt für Migration, 2014, pp. 15-16, own translation).

“Coerced prostitutes” (*Zwangsprostituierte*) are mentioned as a special group, but nevertheless the interests of all “sex workers” are assumed to be the same in relation to the Swedish model. It is presumed that all “sex workers” would be more at risk under such a policy regime. Furthermore, it is asserted that the economic freedom (*Wirtschaftsfreiheit*) that is guaranteed by the Swiss constitution would be infringed upon if the Swedish model was adopted. However, as mentioned earlier, a restriction of the economic freedom can be justified in cases in which state intervention is based on predominant public interest and relies on an appropriate legal foundation (Häfelin & Haller, 2005, pp. 6-7). This possibility was not brought up.

¹⁰ The term “poverty prostitution” has been literally translated from the German term “Armutsprostitution”, which refers to the selling of sex at extremely low prices.

If prostitution were regarded as violence against women and a form of sexual exploitation (see Barry, 1995, p. 65; Moran, 2013, p. 127), a restriction on economic freedom would be justified. But because prostitution is normalized to be viewed as gainful employment in Switzerland, the “right” to engage in prostitution is guaranteed by the constitution. The demand side of prostitution is thereby ignored, while the focus lies exclusively on the supposed “right” (of mainly women) to “work” in the sex industry. The responsibility of (male) sex buyers for the existence of prostitution disappears from the discussion (see Moran, 2013, p. 195; Raymond, 2013, p. 37).

In this framing of prostitution, the sex trade is generally recognized as an inevitable social reality. There is thus a need to treat it like any other business activity, as the following statement by the Federal Office for Migration (NMig) illustrates:

The expert group has agreed to accept sex work as a social reality. For the purpose of protecting the workers in question, the expert group focuses on taking appropriate measures but not on questioning the legitimacy of sex work based on moral concerns (Bundesamt für Migration, 2014, p. 7, own translation).

The critique of prostitution is hereby framed as a moralistic position. Prostitution is regarded as a legitimate profession, although some problematic aspects are noted, such as the exploitation of women through violence, forcing them into unprotected sexual practices as well as unreasonably high rents for rooms in brothels (Bundesamt für Migration, 2014, p. 7). This represents a general tendency within neo-liberal ideology – to frame any opposition to free-market values as “naïve” and “ideological,” while adherence to an individualist, competition-based worldview is presented as rational and pragmatic (see Clarke, 2004, p. 166).

To summarize briefly, in this frame illegal prostitution is thought to be the main problem in the sex trade. This problem is addressed by criminalizing people who do not possess the necessary permit to sell sex. Individuals who sell sex are regarded as (potential) law-breakers who need to be controlled and punished if necessary. Prostitution is framed mainly as a labor issue, and the regulation of the sex industry is based on labor and immigration laws. The demand side, along with the gendered nature of prostitution, is almost entirely ignored, and the sex industry is accepted as a reality that cannot (and should not) be eradicated.

Sex work frame

The sex work frame shares some aspects with the regulation frame. For instance, violence is viewed merely as a negative side effect of the sex trade that can be reduced or eliminated without questioning the existence of the prostitution *per se*. In contrast, this frame differs from the regulation frame in its emphasis on the rights of people in prostitution and its opposition to repressive measures to regulate the sex trade. In this frame, several NGOs – some of which work on the front-line with women in prostitution – present their vision for the future of prostitution as follows (NNgo):

Sex work as an activity that gains social recognition. A small segment of sex workers has created a niche that shows that this is possible. (...) Part of the vision is also that sexual services are open to women as well as to men (Terre des Femmes Schweiz et al., 2014, p. 13, own translation).

The authors argue for the normalization of prostitution and other forms of the sex trade by highlighting the success of “a small segment of sex workers.” This overlooks the structural inequality, exploitation, and damaging effects of the sex trade to women as a group and to gender equality. The possibility that the exploitation of the majority would still have to take place to preserve the relatively comfortable position of a small minority of “sex workers” is not mentioned. This is similar to the liberal concept of rational individuals who pursue their self-interest and whose personal calculations benefit society as a whole. This frame does not address the origin nor the consequences of individual choices and does not take into account structures of oppression (Jeffreys, [1997] 2008, pp. 131-134). The possibility that a practice or action that is beneficial to individual women might nonetheless be harmful to women as a class is not considered (Whisnant, 2015, pp. 9-10).

Furthermore, part of the vision includes the opportunity for women to pay for sex, which is a relatively common aspect of liberal arguments on prostitution (see for example Califia, 1994; Vance, 1984). It represents an interpretation of gender equality that is founded on traditional male standards. Equal participation in oppressive behavior is thereby regarded as a form of gender equality (Jeffreys, [1997] 2008, pp. 208-209).

In this frame, a distinction is created between “good” versus “bad” sex buyers, based on the assumption that sex buyers can potentially have a positive influence on the sex trade, as the following quote from a document by three NGOs (MNgo) in Zurich illustrates:

[T]he City should commit itself to *contribute to raising awareness on the demand side* (...). By means of responsible behavior, sex buyers could make a considerable contribution to the promotion of fair and humane conditions within prostitution (Zürcher Stadtmission et al., 2011, p. 9, own translation, emphasis in original).

While sex buyers are held accountable to a certain degree, this is limited to “responsible” behavior with the women in prostitution. This implies that the interests of sex buyers are congruent with the interests of women in prostitution and establishes a category of “good” sex buyers. Prostitution is herein normalized by upholding the right to buy sex (see Raymond, 2013, pp. 56-58). Sex buyers can justify their purchase of sex and simultaneously retain their self-image of being a “good” and “responsible” client (O’Connell Davidson, 2002, p. 88; Raymond, 2013, p. 57).

In this frame, the legitimacy of demand for prostitution is taken for granted. Free-market ideology is based on the idea that all desires are valid, while any form of critique is equated with a judgment of individuals (Clarke, 2004, pp. 187-188). Marjut Jyrkinen states that in a consumer culture consumption, even of sex services, is regarded as a type of self-expression and a potential source of identity. Individuals are viewed as the best judges of their own needs, and therefore their choices should not be criticized. The role played by industries, including the sex industry, which creates or at least shapes those “needs,” is largely ignored. This representation of the sex trade (or any other industry) as merely supplying the services demanded by (male) consumers should be examined critically (Jyrkinen, 2005, pp. 29-32).

Arguments that maintain the existence of a direct link between prostitution and trafficking in human beings are viewed as “stigmatizing” “sex workers,” as illustrated in the following statement by the Swiss Federal Office for Migration (NMig):

Sex work is often equated with human trafficking and forced prostitution. This equation and mixing leads to wrong representations and in part also to overall stigmatization of sex workers. Although sexual exploitation does often take place also in the sex trade, not every sex worker is a victim of exploitation or human trafficking (Bundesamt für Migration, 2014, pp. 8-9, own translation).

Although indeed not all women in prostitution are victims of exploitation or trafficking, this fact alone is not sufficient to disprove a connection between the two. It has been argued that prostitution and human trafficking are inherently linked by the demand for prostitution, which increases under legalization because buying access to women’s bodies becomes more socially acceptable under such a policy regime (Barry, 1995, pp. 234-235; Raymond, 2003, pp. 320-327). This tendency has been demonstrated by Cho et al.’s study (2013).

A clear division between “free” and “forced” prostitution is widespread within debates about the sex industry (Raymond, 2013, p. 38). This distinction is based on the concept of individual choice, meaning that people should not be restricted and should be allowed to make their own decisions concerning their bodies and lives. In the context of the sex trade, it refers to a choice made with contractual consent. “Sex work” is seen as a choice among other (often) low-paid labor possibilities, especially for less educated, poor and often migrant women (Jyrkinen, 2005, p. 106). It is further argued that forced prostitution cannot be addressed properly until voluntary prostitution is legitimate. The critique of prostitution as a whole is interpreted as a judgment of the women in the sex trade (Alexander 1988, pp. 199-201, 211). Denying women the option of “employment” in the sex industry is interpreted as an infringement of female human rights to self-determination, individual choice and sexual independence (Vanwesenbeeck, 1997, p. 1)

Radical feminist authors, in contrast, argue that it is not possible to create a clear distinction between “freely chosen” and “forced” prostitution because all forms of prostitution are interrelated and based on power inequalities caused by gender, race, and class (Barry, 1995; Jeffreys, 2009). Kathleen Barry (1995, p. 89) further states that the commonly invoked concept of “consent” is not sufficient to make prostitution acceptable. She argues that “consent” is not the indicator of freedom, as such a view is based on individualism rather than an analysis of power and oppression. The fact that prostitution is accepted and sometimes even promoted among women does not negate its oppressive characteristics.

These two opposing theoretical positions underpin the laws and policies on prostitution in all European states. It should, however, be noted that some countries that have legalized prostitution, such as the Netherlands, have found it virtually impossible to distinguish between “free” and “forced” prostitution in practice. Proving coercion and addressing it is very difficult for the authorities (Daalder, 2007, p. 13).

Criminalization of buying sex is strongly opposed within this frame, based on the idea that it would push the sex trade underground and thereby aggravate the

working conditions of “sex workers”. The Swedish model is hereby represented to be equivalent to prohibitionist policy that criminalizes women in prostitution.

The ban of sex work or the criminalization of sex buyers as in Sweden does not solve the problems, on the contrary. Criminalization pushes the trade underground. Neither a ban nor the Swedish model thus make the sex trade disappear but rather worsen the working conditions. In order to improve the situation of sex workers, structural conditions have to be changed (Terre des Femmes Schweiz et al., 2014, p. 13, own translation).

The Swedish model is here reduced to the criminalization of the purchase of sex, which is in fact merely a part of this type of legislation. The central importance of exit services for people in prostitution and the creation of viable alternatives as part of the Swedish model (Ekberg, 2004; Waltman 2011) is ignored in this quote. It also falsely presents the Swedish model as a policy regime that does not address the structural conditions that lead people into prostitution. The crucial differences between an overall prohibition of prostitution on the one hand and the Swedish model, on the other hand, are overlooked. Due to this omission, both approaches are dismissed on the basis of the same arguments.

The authors provide no references for the claim that the “Swedish model” pushes prostitution underground and negatively affects the working conditions of women in the sex trade. In contrast, empirical research in Sweden has shown that prostitution indeed decreased after the introduction of the law, and that claims that hidden prostitution has increased are not correct. Assertions that the law has contributed to deteriorating working conditions and an increase in violence have also been refuted (Ekberg, 2004; 1193-1194; Waltman, 2011, pp. 460-462). In contrast to the opposition of criminalizing the buying of sex stands the following statement by three NGOs in reaction to the City of Zurich’s Prostitution Industry Regulation (MNgo). This document addresses raising the minimum age for prostitution to 18 years, which was implemented in Switzerland in 2014, fulfilling the country’s obligations under the Lanzarote Convention of the Council of Europe (Schweizerische Depeschenagentur, 2014, March 7):

We appreciate that the age of protection is raised to 18 years (...). For the foreign sex workers who must register at the cantonal Office for Economy and Labor, the age of majority is already a condition (Zürcher Stadtmission et al., 2011, p. 14, own translation).

A minimum age for people in the sex industry is thus the only restriction of prostitution that is considered acceptable. Obviously, this limits at the same time the competition amongst “sex workers.” The protection age (*Schutzalter*) leads to the criminalization of sex buyers who use minors in prostitution (Schweizerische Depeschenagentur, 2014, March 7). There is no apparent opposition to a protection age – paradoxically no arguments are made that this form of criminalization drives minors involved in the sex industry underground and worsens their working conditions. It is not further explained why the criminalization of the purchase of sex is considered appropriate in one case but not the other.

Regarding the relationship between the sex industry and gender equality, the NGO’s position paper (NNgo) assumes that the existence of sex work is possible in an egalitarian society.

Viewed as an “area of precarity,” sex work reproduces conditions that run contrary to equal gender relations. For this reason, some feminists view sex work as a fundamental violation of women’s rights and human rights and call for a ban. In this paper, alternatives to a ban are discussed. (...) [W]e advocate for a society in which sex work and the use of sexual services in exchange for remuneration are possible: for all genders, free from stigmatization, discrimination, and violence (Terre des Femmes Schweiz et al., 2014, pp. 3-4, own translation).

The existence of prostitution *per se* is thus not questioned but rather cherished as a preferable “work” and “service.” It is asserted that stigmatization and violence against “sex workers” can potentially be eradicated without abolishing prostitution. Buying sex is considered to be unproblematic as long as this possibility is open to everyone.

The focus of the PGVO on repressive measures towards sellers of sex was mentioned in a statement by three NGOs in reaction to the draft of this regulation (MNGo). In contrast to the provisions of the PGVO, these NGOs rejected any limiting measures. They emphasized the incompatibility between control and repression of people who sell sex, as well as the goal to protect them from exploitation and violence (Zürcher Stadtmission et al., 2011). Regulation and licensing of prostitution are thus viewed as a system of control rather than a way of protecting prostituted women (Alexander, 1988, pp. 210-211). It should be noted here, however, that the opposition to repressive measures towards sellers of sex is also shared by advocates of the abolition of prostitution. Contrary to common claims, abolitionists and/or critiques of the sex industry do not aim to criminalize the selling of sex. The support for the criminalization of sex buyers and the challenging of the sex industry as a whole is often (deliberately) confused and conflated with the criminalization and stigmatization of sellers of sex.

Similar to the regulation frame, the sex work frame thus regards prostitution as a rightful occupation. The main focus, however, is put on the rights of “sex workers” to fair working conditions and protection from violence and exploitation. Control and punishment of people who sell sex are generally opposed by this frame. Prostitution is not exclusively regarded as a labor issue, but questions about sexuality are addressed here as well. The gendered nature of prostitution is examined, but it is concluded that the existence of the sex industry can be compatible with gender equality. The demand side of prostitution is discussed but not viewed as intrinsically problematic.

This way of framing prostitution as work and simultaneously as an expression of sexuality leads to proposed solutions that are expected to improve the situation of “sex workers.” The existence of prostitution itself is defended.

Who Benefits?

Two main framings of prostitution emerged from our data analysis. Official policy documents are largely situated in the identified regulation frame, whereas the NGO papers are representative of what we call the sex work frame. Some elements of this second frame have also been integrated into official documents, which has led to somewhat contradictory aims and measures within these documents. Suggested measures to protect people in prostitution are often pushed aside in favor of more repressive measures.

Our analysis shows how public authorities in Switzerland and the City of Zurich posit prostitution mainly in the context of labor and immigration law issues. Only illegal aspects of prostitution, such as foreign prostituted women without a permit or brothel owners without a license, are regarded as problematic. The protection of women in prostitution is cited as a goal but is then used to justify more control and regulation. Protection by means of control appears to be the central approach to the perceived problems.

In contrast, the examined NGO papers oppose control by the authorities and focus rather on the rights of “sex workers.” The precarious working conditions of women who sell sex as well as the stigmatization of “sex work” are named as the main problems. The vision thus includes the de-stigmatization of prostitution and the safeguarding of legal rights for “sex workers.” It is asserted that all individuals must have the right to make decisions concerning their own bodies and sexuality. Consequently, engaging in prostitution is regarded as a right with which the state must not interfere. A clear distinction is established between “free” and “forced” prostitution, with only the latter being deemed problematic. However, it seems to be mainly the sex buyers and pimps who benefit from this interpretation, as they are regarded as “clients” and “managers” (Raymond, 2013, p. 33).

The role of (male) sex buyers is mainly obscured in both frames, and the only accountability that is placed on them concerns “responsible” behavior with women in prostitution. The supposed right to buy sex remains unchallenged, and gender equality in this respect is understood as the possibility for everyone to purchase sex. The regulation and the sex work frames are uniform in their belief that the Swedish model would diminish the protection of “sex workers.” Interestingly, there are no clear goals set on how the protection should take place, nor analysis of the current situation and its omissions.

Prostitution is thereby accepted as an inevitable social reality. In the sex work frame, prostitution is envisioned to become even a socially recognized form of work and leisure-time activity. Critiques of prostitution *per se* are thought to be based on traditional and moralistic attitudes to sexuality and gender in both frames. Improving the working conditions of women in prostitution and de-stigmatizing the industry are considered as sufficient measures. It should be noted that assumptions regarding the inevitability of prostitution within liberal states support of older ideas about sexuality that are based on the presumed uncontrollability of male desire. In this way, traditional patriarchal views of sex and prostitution merge with a modern economic ideology (Carson & Edwards, 2011, pp. 84-85).

Acceptance of the *status quo* often appears as an objective position. It should, however, be acknowledged that all policy issues are located within social and political power relations. It is mainly those in power – or those who benefit from supporting the same views, such as (here) NGOs who support a pro-prostitution ideology – who get to define policy problems and establish the appropriate concerns for research (Marshall, 1999, pp. 59, 69). Framing the toleration of the sex trade as a pragmatic and non-ideological viewpoint can thus be understood as an exercise of power. A certain knowledge is thereby established as the “truth,” whereas alternative “truths” (e.g., feminist critiques of prostitution as an oppressive, patriarchal institution) are marginalized (Marshall, 1999, pp. 64-65). It must also be noted that within legalized systems the state benefits financially from the sex industry by collecting taxes and license fees, as is the case in the City of Zurich. According to

Sheila Jeffreys (2009, pp. 173-174), states that legalize prostitution become pimps and procurers in the global sex industry.

To further explore the processes of normalization, it is crucial to note how the two main frames came together in building up a united front in the debate on prostitution. In other words, it is important to consider who and which interest groups and organizations were able to make their voices heard and influence political decision-making. For instance, the expert group employed by the Federal Office for Migration (see document NMig) conducted hearings with several individuals and organizations regarding, *inter alia*, the possibility of introducing the Swedish model in Switzerland. These included official bodies, such as local police departments, city representatives and the district attorney of the canton of Zurich, and representatives of so-called “sex worker organizations” and programs that provide advice for sex buyers, such as the *Don Juan Project* in Zurich. The “sex worker organizations” that were included were *Aspasie*, the oldest sex-worker organization in the country, and the *Syndicat des travailleuses et travailleurs du sexe* (STTS), the first “sex worker union” of Switzerland. Both organizations consider prostitution as a social reality that cannot and should not be abolished. They thus oppose any forms of legislative measures on the sex trade, including the introduction of the Swedish model in Switzerland.

The expert group itself included members of the Fachstelle für Frauenhandel und Frauenmigration (FIZ) in Zurich, which was a co-authoring body of two of the NGO documents included in this analysis; and the Network of Organizations, Projects and Individuals Who Defend the Interests of Sex Workers (PROKORE), which co-authored one of these documents. In addition, the expert group consisted of representatives of the cantons and several federal agencies. Voices that are critical of prostitution *per se* were not included in the hearings. There is no indication that women who have exited the sex trade were heard, which is a widespread flaw in analyses of prostitution (Giobbe, 1990, p. 68). “Pro-sex work” organizations had a strong status in the expert group via PROKORE, which states on its website that the sex industry must be recognized as a social reality that cannot be eradicated. It also supports a clear distinction between “free” and “forced” prostitution.

Many western states tend to emphasize individual freedom, which can come at the expense of collective liberation. In the case of Switzerland, this fact is apparent as prostitution is protected under the economic freedom guaranteed by the Swiss constitution. It is uncertain at this moment what conditions would provide the necessary context for a neo-abolitionist feminist frame to be adopted. A move towards the Swedish model of prostitution legislation is thus highly unlikely in the near future. The sex industry is strongly normalized in Switzerland while critiques of prostitution *per se* are regarded as counterproductive, based on the assumption that they are founded on traditional ideas about sexuality and are thought to aggravate the situation of women who sell sex.

It would be beneficial to continue the analysis of power within the particular process of 2010–2015 policy-making. More research is needed on the membership and funding of organizations that currently have the strongest voice in the debate on the sex trade. Important aspects would also be to investigate what type of support and services they offer to people who sell and buy sex. For instance, is there any support provided for those who wish to leave the industry? In addition, further empirical research can enlighten the multifaceted and complex processes of policy-making and the role of lobbying in that. Particularly, voices of former prostituted

women should be included in further research, as they are often overlooked in discussions about the sex industry. In general, efforts should be made to include more marginalized people in the policy debates and to disclose the processes of policy-making, such as lobbying by powerful interest organizations of the sex trade.

ACKNOWLEDGMENTS

This article is based on the Master's thesis "Prostitution policies in Switzerland and the City of Zurich: A critical frame analysis of official documents and NGO papers" (Isler, 2016). *Dignity* thanks the following people for their time and expertise in reviewing this article: Sven- Axel Månsson, Ph.D., professor emeritus, Centre for Sexology and Sexuality Studies, Malmö University, Sweden and Monica O'Connor, Ph.D., researcher, Sexual Exploitation Research Project, School of Social Policy, Social Work and Social Justice, University College-Dublin, Ireland.

AUTHOR BIOGRAPHIES

Corinne Isler possesses Master's Degree in Sociology and European Union Studies from the University of Helsinki, Finland. Her main research interests are women's rights, in particular violence against women and sexual exploitation, children's rights, and migration issues. She has previously worked as a trainee at the Finnish Immigration Service and the Council of Europe.

Marjut Jyrkinen is an associate professor in working life equality and gender studies at the University of Helsinki and research director of the social and economic sustainability of future working life (WeAll) research consortium (weallfinland.fi). The consortium (No. 292883) is funded by the Strategic Research Council at the Academy of Finland (2015-20). Jyrkinen's current research addresses emotional abuse at work, sustainability of working life, intersectionalities of gender, age and ethnicity, and gendered age and care in management and organizations.

RECOMMENDED CITATION

Isler, Corinne & Jyrkinen, Marjut. (2018). The normalization of prostitution in Switzerland: The origin of policies. *Dignity: A Journal of Sexual Exploitation and Violence*. Vol. 3, Issue 2, Article 4. <https://doi.org/10.23860/dignity.2018.03.02.04>.

REFERENCES

- Alexander, P. (1988). Prostitution: A difficult issue for feminists. In F. Delacoste & P. Alexander (Eds.), *Sex work. Writings by women in the sex industry* (pp. 184-214). London, UK: Virago Press.
- Amnesty International (2016, May 26). Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers. Retrieved from <https://www.amnesty.org/en/documents/pol30/4062/2016/en/Bacchi>, C. L. (1999). *Women, policy and politics. The construction of policy problems*. London, UK: SAGE Publications.
- Barry, K. (1995). *The prostitution of sexuality*. New York: New York University Press.

- Biberstein, L., & Killias, M. (2015). Erotikbetriebe als Einfallstor für Menschenhandel? – Eine Studie zu Ausmass und Struktur des Sexarbeitsmarktes in der Schweiz [Erotic establishments as a gateway for human trafficking? A study regarding the scope and structure of the sex work market in Switzerland]. Retrieved from http://www.krc.ch/file/download/Rotlicht_Schweiz_Bericht_KRC_final.pdf
- Bugnon, G., Chimienti, M., & Chiquet, L. (2009a). Der Sexmarkt in der Schweiz. Kenntnisstand, Best Practices und Empfehlungen. Teil 2 – Rechtsrahmen [The sex market in Switzerland. State of knowledge, best practices and recommendations. Part 2 – Legal ramifications]. Retrieved from http://www.unige.ch/sciences-societe/socio/files/6714/2245/9805/sociograph_6b_final.pdf
- Bugnon, G., Chimienti, M., Chiquet, L., & Eberhard, J. (2009b). Marché du sexe en Suisse. Volet 3 – Mapping, contrôle et promotion de la santé dans le marché du sexe en Suisse [The sex market in Switzerland. Part 3 – Mapping, control and promotion of health in the sex market in Switzerland]. Retrieved from http://unige.ch/sciences-societe/socio/files/6014/2246/0095/sociograph_7_final.pdf
- Bundesamt für Migration (BMF): Expertengruppe Hilber [Federal Office for Migration: Expert group Hilber] (2014). Bericht der nationalen Expertengruppe - Schutzmassnahmen für Frauen im Erotikgewerbe [Report by the national expert group – Measures for protection of women in the erotic industry]. Retrieved from <https://www.sem.admin.ch/dam/data/sem/publiservice/berichte/ber-schutz-erotikgewerbe-d.pdf>
- Bundesblatt [Federal leaflet] (1985). Botschaft über die Änderung des Schweizerischen Strafgesetzbuches und des Militärstrafgesetzes, [Message regarding the revision of the Swiss Criminal Code and Military Criminal Code], Vol. II. Retrieved from <http://www.amtsdruckschriften.bar.admin.ch/viewOrigDoc.do?id=10049767>
- Bundesgesetz über die Ausländerinnen und Ausländer [Federal Act on Foreign Nationals] (2005). Retrieved from <https://www.admin.ch/opc/de/classified-compilation/20020232/201701010000/142.20.pdf>
- Califa, P. (1994). *Public sex. The culture of radical sex*. Pittsburgh, PA: Cleis Press.
- Carson, L., & Edwards, K. (2011). Prostitution and sex trafficking: What are the problems represented to be? A discursive analysis of law and policy in Sweden and Victoria, Australia. *Australian Feminist Law Journal*, 34(1), 63-87. <https://doi.org/10.1080/13200968.2011.10854453>
- Cho, S.-Y., Dreher, A., & Neumayer, E. (2013). Does legalized prostitution increase human trafficking? *World Development*, 41 (January), 67-82. <https://doi.org/10.1016/j.worlddev.2012.05.0>
- Clarke, D.A. (2004). Prostitution for everyone: Feminism, globalization and the 'sex' industry. In C. Stark & R. Whisnant (Eds.), *Not for sale: Feminists resisting prostitution and pornography* (pp. 149-205). North Melbourne, Vic., Australia: Spinifex.
- Daalder, A.L. (2007). Prostitution in the Netherlands since the lifting of the brothel ban. In Wetenschappelijk Onderzoek- en Documentatiecentrum [Research and Documentation Centre]. Retrieved from <https://english.wodc.nl/onderzoeksdatabase/1204e-engelse-vertaling-rapport-evaluatie-opheffing-bordeelverbod.aspx>

- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA [2011] OJ 2 101/10. Retrieved from <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:001:1:EN:PDF>
- Eidgenössische Kommission für Frauenfragen [Federal Commission for Women's Issues] ([1998] 2009a). 2.1. Der lange Weg zum Stimm- und Wahlrecht für Frauen [The long path to women's suffrage]. In Eidgenössische Kommission für Frauenfragen (Ed.), *Frauen Macht Geschichte 1848-2000* [Women power history 1848-2000]. Retrieved from <https://www.ekf.admin.ch/ekf/de/home/dokumentation/geschichte-der-gleichstellung--frauen-macht-geschichte/frauen-macht-geschichte-18482000.html>
- Eidgenössische Kommission für Frauenfragen [Federal Commission for Women's Issues] ([1998] 2009b). 3.1. Gleiche Rechte für Frau und Mann: Institutionelle Gleichstellungspolitik [Equal rights for women and men: Institutional equality policy]. In Eidgenössische Kommission für Frauenfragen (Ed.), *Frauen Macht Geschichte 1848-2000* [Women power history 1848-2000]. Retrieved from <https://www.ekf.admin.ch/ekf/de/home/dokumentation/geschichte-der-gleichstellung--frauen-macht-geschichte/frauen-macht-geschichte-18482000.html>
- Eidgenössische Kommission für Frauenfragen [Federal Commission for Women's Issues] ([1998] 2009c). 3.7. Sexuelle Integrität und Gewalt an Frauen [Sexual integrity and violence against women]. In Eidgenössische Kommission für Frauenfragen (Ed.), *Frauen Macht Geschichte 1848-2000* [Women power history 1848-2000]. Retrieved from <https://www.ekf.admin.ch/ekf/de/home/dokumentation/geschichte-der-gleichstellung--frauen-macht-geschichte/frauen-macht-geschichte-18482000.html>
- Eidgenössisches Büro für die Gleichstellung von Frau und Mann [Federal Office for the Equality of Women and Men] (2006). Häusliche Gewalt: Situation kantonaler Massnahmen aus rechtlicher Sicht. Bericht von Marianne Schwander [Domestic violence: Situation of cantonal measures from a legal perspective. Report by Marianne Schwander]. Retrieved from https://www.coe.int/t/dg2/equality/domesticviolencecampaign/countryinformationpages/switzerland/Bericht_d.pdf
- Ekberg, G. (2004). The Swedish law that prohibits the purchase of sexual services: Best practices for prevention of prostitution and trafficking in human beings. *Violence Against Women*, 10(10), 1187-1218. <https://doi.org/10.1177/1077801204268647>
- Erikson, J. (2012). The Various 'Problems' of Prostitution – A Dynamic Frame Analysis of Swedish Prostitution Policy. In M. Coy (Ed.), *Prostitution, Harm and Gender Inequality: Theory, Research and Policy* (pp.159-179). Farnham: Ashgate Publishing Group.
- European Parliament (2014). European Parliament resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality, 2013/2103(INI). Retrieved from <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0162+0+DOC+XML+V0//EN&language=EN>
- Giobbe, E. (1990). Confronting the liberal lies about prostitution. In D. Leidholdt & J.G. Raymond (Eds.), *The sexual liberals and the attack on feminism* (pp. 67-81). New York, NY: Teachers College Press.

- Gira Grant, M. (2014). *Playing the whore. The work of sex work*. London, UK: Verso.
- The Global Gender Gap Report 2017 (2017). Retrieved from http://www3.weforum.org/docs/WEF_GGGR_2017.pdf
- Häfelin, U., & Haller, W. (2005). *Schweizerisches Bundesstaatsrecht* [Swiss constitutional law], 6th edition. Zurich, Switzerland: Schulthess.
- Häusermann, S., & Kübler, D. (2010). Policy frames and coalition dynamics in the recent reforms of Swiss family policy. *German Policy Studies*, 6(3), 163-194. Retrieved from <http://epa-journal.eu/download/6.-policy-frames-and-coalition-dynamics-in-the-recent-reforms-of-swiss-family-policy.pdf>
- Hürlimann, B. (2004). *Prostitution – ihre Regelungen im schweizerischen Recht und die Frage nach der Sittenwidrigkeit* [Prostitution – Its regulation within Swiss law and the question regarding the offence against morality]. Zürich, Switzerland: Schulthess Verlag.
- Hürlimann, B. (2012, November 11). Strassenstrich-Ticketautomat und Bordellbewilligung [Streetprostitution ticket-machine and brothel permit]. *Neue Zürcher Zeitung*. Retrieved from <http://www.nzz.ch/zuerich/sexboxen-ab-kommendem-sommer-in-betrieb-1.17846503>
- Hürlimann, B. (2013, December 4). Prostitution ist nicht sittenwidrig [Prostitution is not an offence against morality]. *Neue Zürcher Zeitung*. Retrieved from <http://www.nzz.ch/zuerich/prostitution-ist-nicht-sittenwidrig-1.18197438>
- Isler, C. (2006). Prostitution policies in Switzerland and the city of Zurich: A critical frame analysis of official documents and NGO papers. Retrieved from https://helda.helsinki.fi/bitstream/handle/10138/163872/Isler_Sociology.pdf?sequence=2.
- Jeannin, A., Rousson, V., Meystre-Agustoni, G., & Dubois-Arber, F. (2008). Patterns of sex work contact among men in the general population of Switzerland, 1987-2000. *Sex Transm Infect*, 84, 556-559. <https://doi.org/10.1136/sti.2008.030031>
- Jeffreys, S. (1997, 2008). *The idea of prostitution*. North Melbourne, Vic., Australia: Spinifex.
- Jeffreys, S. (2009). *The industrial vagina. The political economy of the global sex trade*, New York, NY: Routledge.
- Jyrkinen, M. H. (2005). The organisation of policy meets the commercialisation of sex. Global linkages, policies, technologies. *Economy and Society*, 146. Helsinki, Finland: Hanken, Swedish School of Economics and Business Administration. Retrieved from <http://urn.fi/URN:ISBN:951-555-882-4>
- Koordinationsstelle gegen Menschenhandel und Menschen schmuggel [Swiss Coordination Unit against the Trafficking in Persons and Smuggling of Migrants] (2010). Prostitution. Retrieved from <https://www.ksmm.admin.ch/ksmm/de/home/menschenhandel/besondere-aspekte/prostitution.html>
- Lanfranconi, L.M., & Valarino, I. (2014). Gender equality and parental leave policies in Switzerland: A discursive and feminist perspective. *Critical Social Policy*, 34(4), 538-560. <https://doi.org/10.1177/0261018314536132>
- Marshall, C. (1999). Researching the margins: Feminist critical policy analysis. *Educational Policy*, 13(1), 59-76. <https://doi.org/10.1177/0895904899131006>
- Moran, R. (2013). *Paid for: My journey through prostitution*. London, UK: W.W. Norton & Company, Inc.
- Neuhaus, C. (2011, March 19). Weniger Moral und Bürokratie, mehr Schutz [Less morals and bureaucracy, more protection]. *Neue Zürcher Zeitung*. Retrieved from <http://www.nzz.ch/weniger-moral-und-buerokratie-mehr-schutz-1.9949606>

- O'Connell Davidson, J. (2002). The rights and wrongs of prostitution. *Hypatia*, 17(2), 84-98. <https://doi.org/10.1353/hyp.2002.0030>
- Polizeidepartement, Stadt Zürich [Police Department, City of Zurich] (2010). Entwurf Prostitutionsgewerbeverordnung [Draft of the Prostitution Industry Regulation]. Retrieved from https://www.stadt-zuerich.ch/pd/de/index/das_departement/medien/medienmitteilung/2011/januar/110119a.html
- Polizeidepartement, Stadt Zürich [Police Department, City of Zurich] (2015). Bericht über die Entwicklung des Prostitutionsgewerbes mit der neuen Prostitutionsgewerbeverordnung [Report on the development of the prostitution industry with the new Prostitution Industry Regulation]. Retrieved from https://www.stadt-zuerich.ch/portal/de/index/politik_u_recht/stadtrat/geschaeftedesstadtrates/stadtratsbeschluesse/2015/juni/StZH_STRB_2015_0479.html
- Raymond, J. (2003). Ten reasons for not legalizing prostitution and a legal response to the demand for prostitution. *Journal of Trauma Practice*, 2(3/4), 315-332. https://doi.org/10.1300/j189v02n03_17
- Raymond, J. (2013). *Not a choice, not a job: Exposing the myths about prostitution and the global sex trade*. Washington D.C.: Potomac Books.
- Schweizer Bundesrat [Swiss Federal Council] (2015). Prostitution und Menschenhandel zum Zweck der sexuellen Ausbeutung [Prostitution and human trafficking for the purpose of sexual exploitation]. Retrieved from <http://www.ejpd.admin.ch/dam/data/fedpol/kriminalitaet/menschenhandel/ber-br-prost-mh-d.pdf>
- Schweizerische Depeschagentur [Swiss Telegraphic Agency] (2014, March 7). Bezahlter Sex mit Minderjährigen ist ab Juli strafbar [Paid sex with minors is punishable starting from July]. *Neue Zürcher Zeitung*. Retrieved from <http://www.nzz.ch/schweiz/bezahlter-sex-mit-minderjaehrigen-ist-ab-juli-strafbar-1.18258234>
- Schweizerisches Obligationenrecht [Swiss Code of Obligations] (1911). Retrieved from <https://www.admin.ch/opc/de/classified-compilation/19110009/201704010000/220.pdf>
- Schweizerisches Strafgesetzbuch [Swiss Criminal Code] (1942). Retrieved from <https://www.admin.ch/opc/de/classified-compilation/19370083/index.html>
- Schweizerisches Strafgesetzbuch [Swiss Criminal Code] (2002). Schwangerschaftsabbruch. Änderung vom 23. März 2001 [Abortion. Amendment of 23rd March 2001]. Retrieved from <https://www.admin.ch/opc/de/official-compilation/2002/2989.pdf>
- Staatssekretariat für Migration [State Secretariat for Migration] (2014). Bundesrat hebt Cabaret-Tänzerinnen-Statut auf [Federal Council abolishes statute relating to cabaret dancers]. Retrieved from https://www.sem.admin.ch/sem/de/home/aktuell/news/2014/ref_2014-10-220.html
- Terre des Femmes Schweiz (TDF), Fachstelle Frauenhandel und Frauenmigration (FIZ), cfd, Xenia, & PROKORE (2014). Diskussionspapier Sexarbeit - Fakten, Positionen und Visionen aus feministischer Perspektive [Discussion paper sex work – Facts, positions and visions from a feminist perspective]. Retrieved from http://www.terre-des-femmes.ch/images/docs/2014_Diskussionspapier_Sexarbeit.pdf

- Unternährer, P. (2014, January 29). Nur sechs bewilligte Bordelle in Zürich [Only six licenced brothels in Zurich]. *Tagesanzeiger*. Retrieved from <http://www.tagesanzeiger.ch/zuerich/stadt/Nur-sechs-bewilligte-Bordelle-in-Zuerich/story/10676412>
- Vance, C. S. (1984). Pleasure and danger: Toward a politics of sexuality. In C.S. Vance (Ed.), *Pleasure and danger. Exploring female sexuality* (pp. 1-27). Boston, MA: Routledge & Kegan Paul.
- Vanwesenbeeck, I. (1997). The bath water or the baby? Anti-trafficking policies and prostitutes' rights. Paper presented at conference Prostitution in Europe, 3 November 1997, Stockholm.
- Verloo, M. (2005). Mainstreaming gender equality in Europe. A critical frame analysis approach. *The Greek Review of Social Research*, 117(B), 11-34. <https://doi.org/10.12681/grsr.9555>
- Verloo, M., & Lombardo, E. (2007). Contested gender equality and policy variety in Europe: Introducing a critical frame analysis approach. In Verloo, M. (Ed.), *Multiple meanings of gender equality: A critical frame analysis of gender policies in Europe* (pp. 21-49). Budapest, Hungary: Central European University Press.
- Waltman, M. (2011). Sweden's Prohibition of Purchase of Sex. *Women's Studies International Forum*, 34(5), 449-474. <https://doi.org/10.1016/j.wsif.2011.06.004>
- Whisnant, R. (2015). Not your father's Playboy, not your mother's feminist movement: feminism in a porn culture. In M. Kiraly & M. Tyler (Eds.), *Freedom fallacy. The limits of liberal feminism*. Ballarat, Vic., Australia: Connor Court Publishing.
- World Economic Forum (2017). The Global Gender Gap Report 2017. Retrieved from http://www3.weforum.org/docs/WEF_GGGR_2017.pdf
- Zürcher Stadtmission (ZSM), Fachstelle Frauenhandel und Frauenmigration (FIZ), & Zürcher Aids-Hilfe (ZAH) (2011). Vernehmlassungsverfahren Prostitutionsgewerbeverordnung der Stadt Zürich – Stellungnahme [Consultation procedure for the Prostitution Industry Regulation of the City of Zurich – Statement]. Retrieved from <http://fiz-info.ch/images/content/pdf/stellungnahme%20pvg%2031.3.11.pdf>

APPENDIX – DESCRIPTIONS OF ORGANIZATIONS¹¹

cfđ Christlicher Friedensdienst [Christian Peace Service] <http://www.cfd-ch.org/en/ueber-uns-122.html> Cfd is a feminist peace organization that advocates for women, peace and justice. The organization is involved in international cooperation as well as migration and peace politics.

FIZ Fachstelle Frauenhandel und Frauenmigration [FIZ Advocacy and Support for Migrant Women and Victims of Trafficking] <https://www.fiz-info.ch/en/FIZ-Portrait> FIZ Advocacy and Support for Migrant Women and Victims of Trafficking advocates for the protection and rights of migrant women who are survivors of violence and exploitation. To this end, the organization runs the Counseling Center for Migrant Women and the more specialized Makasi – Counseling and Support Services for Victims of Trafficking in Women. FIZ also works on the educational and policy fronts.

PROKORE

<http://www.sexwork.ch/de/> PROKORE is a Swiss network for the defense of the rights of persons who work in the sex industry. Membership consists of active associations from the area of female and male prostitution and of people who work in the sex trade.

Terre des Femmes Schweiz (TDF) [Terre des Femmes Switzerland] <https://www.terre-des-femmes.ch/en/about-us> Terre des Femmes Switzerland is a human rights organization fighting for gender equality and against gender-based violence. The organization advises persons affected by gender-based violence, trains professionals and persons affected, develops awareness-raising and prevention materials and also works on a political level.

Xenia

<http://xeniabern.ch/> Xenia is a specialist department for sex work in the canton of Berne. It provides advice to sex workers and offers its specialist knowledge to public authorities, politicians, owners of prostitution establishments as well as the media.

Zürcher Aids-Hilfe (ZAH) [AIDS Federation of Zurich] <https://zah.ch/ueber-uns/> The AIDS Federation of Zurich is an independent organization that supports and advocates for people who suffer from HIV, AIDS or other sexually transmitted diseases. The organization engages in awareness raising and prevention for the general population and offers medical and psychosocial assistance to people with increased risks.

Zürcher Stadtmission (ZSM) [Mission of the City of Zurich] <https://www.zhref.ch/intern/kollekten-und-vergabungen/kollektenempfehlungen/zuercher-stadtmission> The Mission of the City of Zurich is a religious organization, whose task it is to support people who are in difficult life situations in the city and the surroundings of Zurich. Its services include Isla Victoria which offers advice and does prevention work for women in the sex industry.

¹¹ The following descriptions are self-declarations by the organizations in question.